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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ROBIN STARR,  
  
  Petitioner,  
  
  v.  
  
STATE OF CALIFORNIA,  
  
  Respondents.

No. 2:13-cv-0006 KJM AC

ORDER

Petitioner, a state prisoner proceeding in forma pauperis, filed a petition for writ of habeas corpus under 28 U.S.C. § 2254. On May 31, 2013, the court entered judgment, dismissing the action without prejudice because it was second or successive pursuant to 28 U.S.C. § 2244. On June 17, 2013, plaintiff filed a notice of appeal, as well as a motion for leave to proceed in forma pauperis, presumably on appeal.

The Federal Rules of Appellate Procedure provide as follows:

[A] party who has been permitted to proceed in an action in the district court in forma pauperis . . . may proceed on appeal in forma pauperis without further authorization unless . . . the district court shall certify that the appeal is not taken in good faith or shall find that the party is otherwise not entitled so to proceed . . . .

Fed. R. App. P. 24(a). In this case petitioner never moved to proceed in district court in forma pauperis. Moreover, after review of the record herein, the court finds that plaintiff’s appeal is not taken in good faith. Accordingly, plaintiff’s motion for leave to proceed in forma pauperis on

1 appeal is denied.

2 In accordance with the above, IT IS HEREBY ORDERED that plaintiff's June 17,  
3 2013 motion to proceed in forma pauperis on appeal is denied. See Fed. R. App. P. 24(a).

4 DATED: June 19, 2013

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6 UNITED STATES MAGISTRATE JUDGE  
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